



THE CITY OF NEW YORK  
OFFICE OF THE PRESIDENT  
BOROUGH OF MANHATTAN

**BOROUGH PRESIDENT GALE A. BREWER  
TESTIMONY TO THE NEW YORK STATE DEPARTMENT OF HEALTH ON  
THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR JEWISH HOME  
LIFECARE RELOCATION TO 125 WEST 97<sup>TH</sup> STREET, MANHATTAN  
MAY 7, 2014**

Thank you for the opportunity to testify regarding the proposed relocation of the Jewish Home Lifecare Campus from 120 West 106<sup>th</sup> Street to 125 West 97<sup>th</sup> Street.

I join my fellow elected officials, residents of Park West Village, the students and parents of P.S. 163, and countless other residents to stand here again to voice our opposition to this proposed project. As many of us in this room stated at the September 17, 2013 scoping hearing, this proposed development will create significant adverse short-term and long-term impacts on the surrounding community.

The Draft Environmental Impact Statement (DEIS) identifies a number of study areas that will be impacted by this development and begins to identify mitigations but more information on these mitigations are needed and a number of these study areas are incomplete.

If JHL had chosen to remain at its current location, we wouldn't be having this discussion today. However, since the institution wants to move, we must ensure that this is done in a responsible manner that fully analyzes the impact of such a facility, the needs of its target population, and the needs of the community in which it will be sited.

However, there are 3 major **BARRIERS TO PROCEEDING:**

**1. Failure to Meet New York State Smart Growth Principle**

The Land Use, Zoning, and Public Policy chapter lays out that the proposal before us is compatible with the neighborhood's existing mix of residential, commercial and institutional uses, that the building is in compliance with the requirements of the Zoning Resolution, and that it meets fundamental policy goals laid out in PlaNYC and the 2010 State Smart Growth Public Infrastructure Act (SSGPIA). A core principle of the state act is participation in community-based planning and collaboration. The DEIS states that this principle has been met by the holding of scoping hearings and other required milestones related to the SEQRA process. I strongly disagree. True community-based planning and collaboration involves more than fulfilling legal obligations under the environmental review process. Community-based planning requires significant outreach, meaningful dialogue, and a consideration of the needs of the stakeholders who will be most impacted by this development. This project has much further to go if this principle is to be legitimately fulfilled. It is not enough for those needs to be considered – there must be a firm commitment by JHL that the needs of the adjacent community will be met.

## **2. Incomplete and Misleading Alternatives**

Another chapter in the DEIS that does not meet the threshold of responsible analysis is the chapter on alternative build scenarios. This chapter states that a "no build" scenario at the West 97<sup>th</sup> Street site would not result in significant adverse impacts for the neighborhood surrounding West 97<sup>th</sup> Street as zoning does not preclude some other as-of-right development at the site. The DEIS goes on to describe a West 106<sup>th</sup> Street Redevelopment Alternative that results in only 303 beds, that would require longer construction phasing and significant disruption to the operations of JHL, therefore implying a larger claim that this no build scenario would actually be detrimental to JHL clients and hinder the facility's future development plans to modernize. This is misleading at best, and effectively pits the needs of existing residents of JHL against the long-term needs of the student population at PS 163 and the residents in the surrounding buildings. The alternatives fail to even acknowledge a realistic alternative no build scenario that would both leave West 97<sup>th</sup> Street unaffected and allowed JHL reach its goal.

The DEIS fails to mention that this is not the first time that the community has been asked to review a new JHL development proposal. It is not the first time we have been told that the current JHL facility is inadequate and that the new proposal will be a state of the art nursing facility. And it is not the first time we have been asked to accept that JHL needs to build bigger to achieve this goal. Since 2007 JHL has been given the privilege to develop their West 106<sup>th</sup> Street property while the surrounding community was contextually rezoned. The West 106<sup>th</sup> Street campus was purposefully carved out of the Upper West Side Rezoning to allow for JHL to redevelop their property under the then existing R7-2 zoning district. This district permits height factor development and greater flexibility than the contextual districts proposed at the time of the rezoning. JHL went through the lengthy approval process, and the redevelopment of JHL's West 106<sup>th</sup> Street property was approved. Today, JHL continues to own their property and as the owner has the right to develop it as they see they fit. Even under the current West 106<sup>th</sup> Street contextual rezoning, currently pending official approval, JHL still has a number of options for redevelopment, such as the request of variances and text amendments, which were not even mentioned, must less explored. The result is that this analysis is also incomplete and does not meet the threshold of a responsible and full analysis.

## **3. Unresolved open space and zoning compliance concerns**

Finally, serious questions have been raised regarding the zoning compliance of the proposal in regards to the open space requirements, and whether, if those are not met, this proposal can even be constructed. The fact that these concerns continue to be raised and have not yet been adequately resolved in the eyes of the community that is supposed to be engaged by state act should give one pause before proceeding with the proposal.

In addition to these core barriers I've outlined, the DEIS needs to fully address the following **ANALYSIS CONSIDERATIONS:**

### **Hazardous material**

As stated in the DEIS, the soil on the site contains hazardous levels of lead, mercury, arsenic, and barium, as well as petroleum-contaminated soil as deep as 15 feet. In addition there is an active oil spill site from 2013 that will require mitigation. The presence of these hazardous materials require a New York State Department of Health approved Remedial Action Plan ("RAP") and associated Construction Health and Safety Plan ("CHASP") the details of which have yet to be

provided. The method in which these hazardous materials will be handled at the site, stored, and transported must be finalized and thorough outreach to the surrounding community must be completed before they can be approved.

The site is adjacent to Public School 163, which supports 650 students; two large housing complexes with approximately 800 residents; and public playgrounds. The safety plan must include a robust Community Air Monitoring Plan that includes Dust and particulate real-time monitoring.

I am encouraged to know that the DEIS proposes a vapor barrier to surround the new building's cellar slab and sidewalls to prevent vapor intrusion and new imported top soil in areas not covered by buildings or paving. I am also encouraged that a request made in my March 11, 2014 letter to New York State Department of Health for any significant soil disturbance be done in an enclosed structure has been responded to and that the construction site will be surrounded by a protective cocoon to mitigate dust and noise.

### **Shadows**

The shadows chapter also requires further analysis work. Figure 3-2 of the Tier 3 Assessment clearly shows that the PS 163 facility will be cast in shadow for significant amounts of time, yet there is no analysis framework or discussion of the impact to the students' quality of light and air. The needs of the student body should be weighed with the same significance as the plants in the study area. It is again misleading to not even mention the decrease in natural light and what impacts that may have on students' states of mind and body and the quality of absorption and knowledge retention they experience in a compromised educational environment. I find it hard to believe that a darkened classroom is at all conducive to true engagement and study.

This chapter is also remiss in its dismissal of any significant impacts to the Happy Warrior Playground. Again, it is misleading to state that since the largest shadow impact is during the winter months, that no impact exists. It is also misleading to state that since it is paved surfaces that are most impacted by the shadows, that this also does not warrant further analysis as there would be no significant adverse impact. Students and residents play outside year round and require physical activity regardless of the temperature. What will impact play are increased shadow impacts, and these should not be so lightly dismissed. Further analysis should be done to get to the root of what these impacts will be – how many students and residents will be affected? What is the utilization rate in the morning hours of the playground?

### **Infrastructure impacts**

The analysis of the infrastructure impacts of the proposed project is missing a key element. The DEIS claims that any impact the project would have on utilities would not be a net new increase in demand because JHL currently generates a comparable amount at its existing West 106<sup>th</sup> Street campus. This analysis is flawed because it ignores that as a result of JHL choosing to develop elsewhere the West 106<sup>th</sup> Street property will also be redeveloped, and is currently proposing to house over 500 units of market rate housing. While the West 106<sup>th</sup> Street residential development may not meet the requirements for its own environmental impact analysis, for JHL not to acknowledge it in the infrastructure impacts is misleading. An environmental impact should include the cumulative effect of both properties.

### **Construction**

If this project goes through as proposed, and I hope it does not, the most significant short term negative impact will be the 30 month long construction timeline of the building. As stated in the DEIS the construction will adversely impact the life of the surrounding residents. But even more troubling is the way in which the DEIS disregards the guaranteed negative impact the construction will have on the students and faculty of P.S. 163.

The DEIS construction noise analysis predicts that construction noise levels will exceed the CEQR criteria between 9 to 14 consecutive months, below the 24 month minimum. This is the equivalent of one and half academic years of these students' lives. This calculation is derived from only contemplating the excavation, foundation, and superstructure work as noisy enough to adversely impact the students at P.S. 163. The calculation is misleading and requires further study. For one, the DEIS states these phases of the work would include the operation of pile driver, a tower crane, pavement breakers, and concrete pumps, as well as movements of trucks to and from the Project Site. The DEIS does not consider alternative methods to pile driving such as caisson drilling and should be further studied. As detailed in the DEIS, caisson drilling creates a far less adverse impact in terms of vibrations and in my experience with noise. In addition new technology in terms of jackhammer mufflers as well as individual machine unit sound blankets must be applied at this site.

P.S. 163 is less than 20 feet away from the proposed site with only single-paned windows and window unit air conditioners. In addition, the school's Kindergarten and first grade classes are housed in what were meant to be temporary trailers in the rear of the building. JHL's response to this latter concern is unsatisfactory, as regardless of the distance of these trailers from the main noise receptors, they will undoubtedly be impacted due to their lack of insulation and physical make-up. The DEIS does not analyze the impact the construction will have on the students in the trailers and considers the school's window air conditioner units as a noise mitigation measure. The idea that the noise from the air conditioners would not add to the problem but would block the noise of pile driving and excavation work is outrageous. In addition those units are only utilized for a few months out of the year.

The DEIS is dismissive of this significant impact to both the student and residential population. They deserve better and I urge a complete analysis under Public Health, which is currently missing from the DEIS, to seriously look at this issue.

A project such as this demands an experienced construction coordinator and a construction task force that meets routinely and provides proactive forecasts for the surrounding community. I am encouraged that this was offered in the DEIS and expect it to be fulfilled, hopefully under the guidance of Penny Ryan, District Manager of Community Board 7.

### **Mitigation**

I cannot stress the importance of a real commitment by JHL to meet the needs and considerations presented by the community on mitigation measures. It is not enough for JHL to consider the range of options presented in the DEIS. The impacts as outlined and the principles this proposal is supposed to meet under the State Smart Growth Public Infrastructure Act demand a firm commitment.

Thank you again for the opportunity to speak today and for listening to the critical barriers to proceeding and my concerns with the current analysis' determinations.